REMARKS

The Office Action dated January 16, 2008, has been received and carefully noted. The above amendments to the claims, and the following remarks, are submitted as a full and complete response thereto.

By this Response, claims 11, 17, 40, and 53 have been amended to more particularly point out and distinctly claim the subject matter of the present invention. Claims 54-64 have been added. No new matter has been added. Support for the above amendments is provided in the Specification on at least pages 7-14. Accordingly, claims 1, 6-7, 9-14, 17-19, 38, 40, and 47-64 are currently pending, of which claims 1, 38, 40, and 53 are independent claims. Applicants request entry of the above amendments because the above amendments place the claims in better condition for allowance.

In view of the above amendments and the following remarks, Applicants respectfully request reconsideration and timely withdrawal of the pending rejections to the claims for the reasons discussed below.

Claim Rejections under 35 U.S.C. §102(e)

The Office Action rejected claims 1, 6-7, 9-13, 17-19, 38, 40, and 47-53 under 35 U.S.C. §102(e) as being allegedly anticipated by Endo III, *et al.* (U.S. Patent No. 5,943,610) ("Endo"). The Office alleged that Endo discloses or suggests every feature recited in claims 1, 6-7, 9-13, 17-19, 38, 40, and 47-53. Applicants respectfully submit that the claims recite subject matter that is neither disclosed nor suggested in Endo.

Claim 1, upon which claims 6-7, 9-14, 17-19, and 48-50 depend, recites a method. The method includes receiving from each of a plurality of second stations at a first station a power control command having a given value. The given values for the power control commands are determined from the strength of signals received at the plurality of second stations from the first station. The method further includes determining received values of the received power control commands, combining the determined received values of the received power control commands from each of the second stations to generate a combined value, and comparing the determined received values with a first threshold value. The method further includes determining a given value for each received power control command based on the comparison, selecting one of the determined given values in accordance with a predetermined criterion, and controlling the power at which the first station transmits signals based on the combined value from combining determined received values and the selected determined given value from comparing the determined received values.

Claim 38, upon which claims 47 and 51-52 depend, recites an apparatus. The apparatus includes determining means for determining received values of power control command received from a plurality of second stations. Each power control command has a given value. The given values for the power control commands are determined from the strength of signals received at the plurality of second stations from a first station. The apparatus further includes combining means for combining the determined received values of the received power control command from each of the second stations to

generate a combined value, and means for comparing the determined received values with a first threshold value, for determining a given value for each received power control command based on the comparison, and for selecting one of the determined given values in accordance with a predetermined criterion. The apparatus further includes controlling means for controlling the power with which the first station transmits to the second stations based on the combined value and the selected determined given value.

Claim 40 recites an apparatus. The apparatus includes transmitting means for transmitting signals to a plurality of stations, receiving means for receiving power control commands from the plurality of stations, and determining means for determining received values of power control command received from the plurality of stations. Each power control command has a given value. The given values for the power control commands are determined from the strength of signals received at the plurality of stations from the apparatus. The apparatus further includes combining means for combining the determined received values of the received power control command from each of the stations to generate a combined value, means for comparing the determined received values with a first threshold value, for determining a given value for each received power control command based on the comparison, and for selecting one of the determined given values in accordance with a predetermined criterion. The apparatus also includes controlling means for controlling the power with which the first station transmits to the stations based on the combined value and the selected determined given value.

Claim 53, upon which claims 54-64 depend, recites an apparatus. The apparatus includes a determiner configured to determine received values of power control command received from the plurality of second stations. Each power control command has a given value. The given values for the power control commands are determined from the strength of signals received at the plurality of second stations from a first station. The apparatus further includes a combiner configured to combine the determined received values of the received power control command from each of the second stations to generate a combined value. The apparatus further includes a comparator configured to compare the determined received values with a first threshold value, to determine a given value for each received power control command based on the comparison, and to select one of the determined given values in accordance with a predetermined criterion. The apparatus further includes a controller configured to control the power with which the first station transmits to the second stations based on the combined value and the selected determined given value.

As will be discussed below, Endo fails to disclose or suggest every feature recited in claims 1, 6-7, 9-13, 17-19, 38, 40, and 47-53, and therefore fails to provide the features discussed above.

Endo is directed to a transmission power control system that controls the transmitting power level of a mobile terminal. Referring to FIG. 1 of Endo, a mobile terminal 100 is communicating with a base station 101 controlled by a base station controller 103. The reception field strength of the mobile terminal 100 is measured by

the base station controller 103, which uses separate functions to monitor and instruct the mobile terminal to increase/decrease transmission power depending on the measured reception field strength (Endo, Abstract; col. 2, line 14, to col. 3, line 62).

Applicants respectfully submit that Endo fails to disclose or suggest every feature recited in claim 1, and similarly recited in claims 38, 40, and 53. Specifically, Endo fails to disclose or suggest, at least,

> receiving from each of a **plurality** of second stations at a first station a power control command having a given value, wherein the given values for the power control commands are determined from the strength of signals received at the plurality of second stations from said first station;
>
> **combining** the determined received values of the received power control commands from each of the second stations to generate a **combined** value;
>
> controlling the power at which the first station transmits signals based on the combined value from combining determined received values **and** the selected determined given value from comparing the determined received values,

as recited in claim 1, and similarly recited in claims 38, 40, and 53 (emphasis added).

Among other deficiencies, Endo fails to disclose a plurality of second stations, combining received values, or generating a combined value. After careful review of Endo, Applicants respectfully submit that nowhere does Endo disclose receiving a power control command from a plurality of stations. At best, the transmission power control system of Endo is limited to controlling the transmission power of an individual mobile terminal based on a series of measured signal strength values measured over time for the exact same mobile terminal. Endo further fails to disclose any type of combining

operation. The measured values received from the mobile terminal are *not combined* with other measured values received from that same mobile terminal or any other mobile terminal. In addition, because Endo fails to disclose a combining operation, clearly Endo also fails to disclose controlling the transmission power of the mobile terminal based on any sort of *combined value*. Furthermore, the selected determined given value recited in claim 1 could not possibly be taught by Endo because of the lack of a plurality of stations of which a plurality of values could be obtained to select a determined given value.

Furthermore, Applicants respectfully submit that the *Response to Arguments* in the Office Action failed to address Applicants' aforementioned arguments presented in Applicants' Response filed on December 17, 2007, and Applicants' Response filed on October 16, 2007 (See Office Action on pages 8-13). Rather, in the *Response to Arguments*, the Office Action merely copies text from Endo at column 4, lines 32-65, column 5, line 63, to column 6, line 19, and column 6, line 31, to column 7, line 54. The Advisory Action of November 29, 2007, and the Final Office Action of August 16, 2007, also merely copy the aforementioned text from Endo, failing to address Applicants' amended claims.

Furthermore, the rejections of claims 1 and 53 in the present Office Action refer to features of the claims not recited in the pending set of claims. The Office Action of August 16, 2007, included the same error. As previously noted, the present Office Action, the Advisory Action of November 29, 2007, and the Final Office Action of

August 16, 2007, merely copy the aforementioned text from Endo, failing to address the features of Applicants' amended claims.

Furthermore, the rejections of claims 38 and 40 fail to demonstrate that Endo discloses or suggest, at least, the "means for comparing the determined received values with a first threshold value, determining a given value for each received power control command based on the comparison, and selecting one of the determined given values in accordance with a predetermined criterion" recited in claims 38 and 40. As previously noted, the present Office Action, the Advisory Action of November 29, 2007, and the Final Office Action of August 16, 2007, merely copy the aforementioned text from Endo, failing to address the features of Applicants' amended claims.

Furthermore, Applicants respectfully submit that the Office Action failed to provide clear explanations of all actions taken by the Examiner during prosecution of the application pursuant to MPEP 707.07(f). Specifically, the Office Action failed to address each of Applicants' arguments presented in Applicants' Response filed on December 17, 2007, and Applicants' Response filed on October 16, 2007. Accordingly, the present Office Action is incomplete; therefore, a subsequent Office Action to this Response should not be made Final.

Therefore, Applicants respectfully submit that the Office Action fails to substantiate a *prima facie* case of anticipation of claims 1, 6-7, 9-13, 17-19, 38, 40, and 47-53 based on the teachings of Endo. Applicants respectfully submit that the Office Action's repeated failure to address the features recited in the claims is a clear error.

Accordingly, Applicants respectfully request withdrawal of the rejections of claims 1, 6-7, 9-13, 17-19, 38, 40, and 47-53 under 35 U.S.C. §102(e), and respectfully submit that claims 1, 38, 40, and 53, and the claims that depend therefrom, are in condition for allowance.

Claim Rejections under 35 U.S.C. §103(a)

The Office Action rejected claim 14 under 35 U.S.C. §103(a) as being allegedly unpatentable as obvious over Endo.

Endo was discussed above. As previously noted above, Endo fails to disclose or suggest every feature recited in claim 1. Specifically, Endo fails to disclose or suggest, at least,

> receiving from each of a **plurality** of second stations at a first station a power control command having a given value, wherein the given values for the power control commands are determined from the strength of signals received at the plurality of second stations from said first station;
>
> **combining** the determined received values of the received power control commands from each of the second stations to generate a **combined** value;
>
> controlling the power at which the first station transmits signals based on the combined value from combining determined received values **and** the selected determined given value from comparing the determined received values,

as recited in claim 1, and similarly recited in claims 38, 40, and 53 (emphasis added).

Furthermore, in the rejection of claim 14, the Office Action submits that Endo fails to teach the threshold value in the range of -0.025 and -0.30. However, the Examiner took official notice that the threshold value in the range of -0.025 and -0.30 is a design choice.

The Examiner alleged it would have been a matter of design choice to select the range -0.025 and -0.30 to control performance of the system more precisely. Such allegation is a conclusion rather than a reason to make the particular modification (i.e., the threshold value in the range of -0.025 and -0.30) to the method of Endo. If the Examiner is relying on personal knowledge to support a finding of what is known in the art, the Examiner **must provide** an Affidavit or Declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2) and MPEP 2144.03(c). Accordingly, Applicants respectfully challenge the Examiner's use of design choice as a basis for rejection and respectfully require the Examiner to withdraw the rejection or provide an Affidavit or Declaration as set forth above if the rejection is to be maintained.

The Supreme Court in *KSR International, Co. v. Teleflex, Inc., et al.*, 82 USPQ2d 1385 (Sup. Ct. 2007), citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006), noted that "rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." The Office Action failed to meet this burden.

Furthermore, claim 14 depends from claim 1. Accordingly, claim 14 should be allowable for at least its dependency upon an allowable base claim, and for the specific limitations recited therein.

Therefore, Applicants respectfully request withdrawal of the rejection of claim 14 under 35 U.S.C. §103(a), and respectfully submit that claim 1, and the claims that depend therefrom, are in condition for allowance.

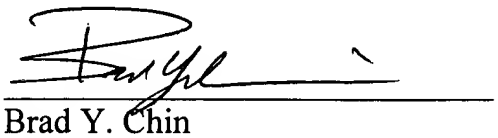
CONCLUSION

In conclusion, Applicants respectfully submit that Endo fails to disclose or suggest every feature recited in claims 1, 6-7, 9-14, 17-19, 38, 40, and 47-64. The distinctions previously noted are more than sufficient to render the claimed invention unanticipated and non-obvious. It is therefore respectfully requested that all of claims 1, 6-7, 9-14, 17-19, 38, 40, and 47-64 be allowed, and this present application be passed to issuance.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, Applicants' undersigned representative at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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